



**DEPUTY MAYOR TONI ATKINS
COUNCILMEMBER DONNA FRYE**
City of San Diego

MEMORANDUM

DATE: March 8, 2004
TO: Mayor and Councilmembers
FROM: Deputy Mayor Toni Atkins
Councilmember Donna Frye
SUBJECT: Brown Act/Closed Session

Under the Brown Act, the Mayor and City Council, not the City Attorney, decide whether to meet in closed session. Closed sessions are the EXCEPTION to the open meeting requirements in the Brown Act. Even as to matters that are appropriately discussed in closed session, it is the Mayor and City Council that must make an affirmative decision regarding compliance with the authorized exceptions in the Brown Act, and determine whether it is in the public's best interest to hold those discussions in private.

In order to ensure that we meet both the letter and spirit of the law, discussions about the basis for going into closed session should take place in open session, *before* we meet in closed session. Therefore, before we attend any further closed session meetings, we ask that you:

1. Docket an agenda item for Monday March 15, 2004 for the Mayor and City Council to discuss and set the new policy for how we want to proceed before meeting in closed session. This will include, but not be limited to, a discussion on:

- a. all authorized exceptions of the Brown Act (personnel, pending litigation and attorney-client privilege, real property negotiations, labor negotiations, public security and license application);
- b. the policy of how and by whom the agenda items for closed session will be determined;
- c. the information that will be included in the closed session notice and how that information will be drafted so the public is better informed and, therefore, better able to participate;
- d. the process to determine when and how the public, Mayor and City Councilmembers are notified of litigation filed against the City;

e. how closed session items will be noticed on the open session docket.

cc: Casey Gwinn, City Attorney